

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT JAN 24 2022

SENTENCE BY A PERSON IN FEDERAL CUSTODY

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

United States District Court		District <u>Western Texas</u> BY _____
Name (under which you were convicted): <u>William James Jonas III</u>		Docket or Case No.: <u>DR16 CR135(1)</u>
Place of Confinement: <u>FCI-Gilmer, Glenville, WV 26351</u>	Prisoner No.: <u>66834380</u>	
UNITED STATES OF AMERICA		Movant (include name under which convicted) <u>v. William James Jonas III</u>

MOTION

DR-22-cv-00004

1. (a) Name and location of court which entered the judgment of conviction you are challenging:

U.S. District Court, Del Rio Division, Western District Texas(b) Criminal docket or case number (if you know): DR16 CR135(1)

2. (a) Date of the judgment of conviction (if you know): June 26, 2017

(b) Date of sentencing: May 16, 2018

3. Length of sentence: 420 months followed by 5 years supervised release

4. Nature of crime (all counts): Wire fraud 18 USC §1343
Federal programs bribery 18 USC §666
Honest-services wire fraud 18 USC §1346
Conspiracy 18 USC §371, 1349

5. (a) What was your plea? (Check one)

(1) Not guilty ☒(2) Guilty ☐(3) Nolo contendere (no contest) ☐

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or what did you plead guilty to and what did you plead not guilty to?

N/A

6. If you went to trial, what kind of trial did you have? (Check one)

Jury ☒Judge only ☐

7. Did you testify at a pretrial hearing, trial, or post-trial hearing?

Yes ☐No ☒

8. Did you appeal from the judgment of conviction?

Yes ☒No ☐AM

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9. If you did appeal, answer the following:

- (a) Name of court: U.S. Court of Appeals, Fifth Circuit
- (b) Docket or case number (if you know): 18-50257
- (c) Result: District Court Affirmed
- (d) Date of result (if you know): August 14, 2020
- (e) Citation to the case (if you know): 2020 U.S. App. Lexis 25874
- (f) Grounds raised: Sixth Amendment - denial of right to counsel, abuse of discretion; loss calculation erroneous; other grounds as outlined in appellate filings and better understood by appellate counsel - see Exhibit A

(g) Did you file a petition for certiorari in the United States Supreme Court?

Yes



No



If "Yes," answer the following:

(1) Docket or case number (if you know): unknown

(2) Result: denied

(3) Date of result (if you know): February 2021

(4) Citation to the case (if you know): unknown

(5) Grounds raised: unknown - see Exhibit A

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes ☐

No ☒

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

N/A

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(b) If you filed any second motion, petition, or application, give the same information: *N/A*

(1) Name of court: _____

(2) Docket of case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☐ No ☐ *N/A*

(2) Second petition: Yes ☐ No ☐ *N/A*

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not: *N/A*

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE:

New Evidence

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

- See Exhibit B and Exhibit C and Exhibit E (including pp 15-17)
- See Exhibit D, page 1, I. New Evidence A-E
- The documents and witness statements were not known to movant at time of trial
- The documents and witness statements referenced in Exhibits B, C, D, and E

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

This ground requires factual development outside the trial record.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

N/A

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐No ☐N/A
N/A
N/A

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

N/A

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

N/A

GROUND TWO:

Ineffective Counsel

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

- See Exhibit D (IV Ineffective Counsel, pages 1-2) and All Exhibit E with particular attention to pages 11-15
- In addition to the facts listed in the foregoing exhibits ineffective counsel by calling zero witnesses, using zero experts, and bowing to prosecutor bullying created extreme prejudice against the movant.
- Counsel failed to move to sever thereby prejudicing movant with a co-defendant prosecutors called a "walking crime spree!" Counsel knew this was prosecutors' opinion yet kept movant with this prejudicial character.
- See Exhibit A (reference to trial counsel)

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

Requires factual development outside the trial record.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐

No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐

No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐

No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

GROUND THREE:

*Prosecutor Misconduct
to include entrapment*

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

- See Exhibit D page 1, Exhibit B (attention to page 8 of 28)
- See Exhibit E with attention to pages 1-10, ^{See Exhibit C}
- Prosecutors knew Pelaez and other witnesses were presenting perjured testimony (also in Exhibit E)

7.01/15)

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Prosecutors coordinated specific false statements used during victim impact presentation that judge specifically referenced in sentencing above guidelines. Fifth Circuit confirmed Judge used these false narratives about personnel matters. jury was solely influenced by false statements

(b) Direct Appeal of Ground Three:

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐No ☒

- (2) If you did not raise this issue in your direct appeal, explain why:

Requires factual development outside the trial record.

(c) Post-Conviction Proceedings:

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐No ☒

- (2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

N/A

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

- (3) Did you receive a hearing on your motion, petition, or application?

Yes ☐No ☐

- (4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐No ☐

- (5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐No ☐

- (6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

N/A

GROUND FOUR:

Vindictive Prosecution

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

*See Exhibit D page 1
See Exhibit E with attention to pages 9-10*

(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

Requires factual development outside trial court record.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

N/A

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

Yes - (A) Miscalculation of Damages (see Exhibit D and Exhibit E) - requires factual development outside of the trial court record.
(B) Judicial Bias (see Exhibit D, Exhibit E, and Exhibit F) - requires factual development outside of the trial court record.

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the you are challenging? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

15. Give the name and address, if known, of each attorney who represented you in the following stages of the you are challenging:

(a) At the preliminary hearing:

Joe Florio, San Antonio, TX

(b) At the arraignment and plea:

Roy Munoz, Uvalde, TX

(c) At the trial:

Roy Munoz, Uvalde, TX

(d) At sentencing:

Pro Se

(e) On appeal:

Jorge G. Aristotelidis, 310 S. St. Marys St, Suite 1910, San Antonio, TX 78205

(f) In any post-conviction proceeding:

(g) On appeal from any ruling against you in a post-conviction proceeding:

16. Were you sentenced on more than one court of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*

U.S. Supreme Court, cert denied
February 2021 - less than
one year ago.

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of –

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

12 1/15)
Therefore, movant asks that the Court grant the following relief:

*dismissal of all charges, new trial, re-sentencing,
reduction of sentence (See Exhibit 6)*

or any other relief to which movant may be entitled.

[Signature]
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on

1/18/2022
(month, date, year)

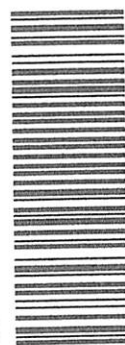
Executed (signed) on *1/18/2022* (date)

[Signature]
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

William James Jonas III #66834-380
FCI - Glimer
P.O. Box 6000
Glennville, WV 26351-6000

CERTIFIED MAIL



7017 2400 0000 5515 7055

RECEIVED
January 24, 2022

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY: **TB**

DEPUTY

Clerk, U.S. District Court
Western District of Texas
United States Courthouse
111 E. Broadway, Suite 100
Del Rio, Texas 78840

